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March 3, 2021

VIA ECF

Hon. Vernon S. Broderick, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *King v. Fedcap Rehabilitation Services, Inc., et al.*,
Case No. 20-Civ-1784

Dear Judge Broderick:

We are counsel to Plaintiff in the above-captioned matter and write in response to the Court's Order dated February 19, 2021.

As the Court noted at Dkt. 26, "parties may not privately settle FLSA claims with prejudice absent approval from the Department of Labor or the district court." *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206 (2d Cir. 2015). However, here, Plaintiff filed a notice of dismissal **without** prejudice, for which Court approval is not required under *Cheeks*.

In a similar FLSA action, *Canelas v. World Pizza, Inc., et al.*, Hon. Edgardo Ramos, U.S.D.J. denied the parties' request for approval of a settlement *with* prejudice, advising the parties that they may "...stipulate to dismissal of the case *without* prejudice, which the Court need not approve under current Second Circuit caselaw", citing *Cheeks*. (See *Canelas*, 14-CV-7748, Dkt. 139 at page 6).

In view of the foregoing, Plaintiff requests the Court to enter the dismissal without prejudice. If the Court is unwilling to do so, the parties will submit the settlement, once finalized, to the Court for approval.

Thank you for Your Honor's consideration.

Respectfully,

/s/ Anne Seelig
Anne Seelig

cc: all parties via ECF